IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 10374 of 2007(I)

PETITIONER:

M.MOHAMMED MAKBOOL, PROPRIETOR,
ALLIED PAINT DISTRIBUTORS, VI/619 MB,
NEAR BMC, THRIKKAKKARA P.O, ERNAKULAM.

BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN

RESPONDENTS:
---

1. SALES TAX OFFICER, KGST CIRCLE-I,
KALAMASSERRY.

2. DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES DEPARTMENT,
ERNAKULAM.

3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT,
ERNAKULAM AT KAKKANAD.

4. STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT(TAXES DEPARTMENT),
THIRUVANANTHAPURAM.

BY G.P. SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ASSMT. ORDER DT.15.1.07 FOR 2004-05 OF R1.

P2: TRUE COPY OF MEDICAL CERTIFICATE DT.25.3.07 ISSUED BY THE ASST. SURGEON, GOVT. STANLEY HOSPITAL, MADRAS-1.

P3: TRUE COPY OF APPEAL IN FORM 30 FILED BY PETITIONER BEFORE R2 ON 24.3.07.

P3(a): TRUE COPY OF APPLICATION FOR CONDONATION OF DELAY FILED BEFORE R2 BY PETITIONER DT.24.3.07.

P3(b): .DO. FOR EARLY HEARING FILED BEFORE R2 DT.24.8.06.

P3(c): .DO. FOR STAY FILED BY PETITIONER BEFORE R2 DT.24.8.06.

P4: TRUE COPY OF R.R. NOTICE IN FORM I DT.19.3.07 ISSUED BY R3.

P5: TRUE COPY OF ORDER DT.26.3.07 IN WP(C) NO.10374/07 OF THIS HON'BLE COURT.

P6: TRUE COPY OF ARGUMENT NOTE DT.7.4.07 WITH ENCLOSURES FILED BEFORE R2.

P7: TRUE COPY OF STAY ORDER IN STA 684/07 DT.7.4.07 PASSED BY R2.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

W.P.(C) No.10374 of 2007

.....

Dated this the 18th day of June, 2007.

JUDGMENT

The order under challenge is stay order issued by the Deputy Commissioner in appeal. This court vide interim order dated 26.3.2007 directed payment of one third of balance tax as condition for stay. Counsel submitted that petitioner has made payment. If petitioner has remitted one third, then there will be direction to the petitioner to approach the Deputy Commissioner with proof of payment and if payment is made, the Deputy Commissioner will hear the petitioner and dispose of the appeal out of turn within six weeks thereafter. There will be direction to the officer to accept the bond furnished by the petitioner with employees as sureties for this year. However, it is for the officer to consider running liability and see whether adequate security is furnished by the petitioner for registration and if not, demand additional security as and when required.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms